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12 **IN THE UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**

14 MELISSA MARIE MCINTOSH, individual and  
15 natural parent and guardian of minor ANTHONY  
16 TYLER HARRIS;

17 Plaintiffs,

18 vs.

19 CLARK COUNTY SCHOOL DISTRICT; PAT  
20 SKORKOWSKY, in his individual and official  
21 capacity; JOSEPH PETRIE, in his individual and  
22 official capacity; JAMIE GILBERT, in her  
23 individual and official capacity, ANTHONY  
24 DERBY, in his individual and official capacity;

25 Defendants.

CASE NO.: 2:17-cv-0490-JAD-NJK

**JOINT STIPULATION AND  
~~(PROPOSED)~~ ORDER TO STAY  
DISCOVERY**

(First Request)

26 Plaintiffs, MELISSA MARIE MCINTOSH, individual and natural parent and guardian of  
27 minor ANTHONY TYLER HARRIS (“Plaintiffs”), and Defendants, CLARK COUNTY SCHOOL  
28 DISTRICT, PAT SKORKOWSKY, JOSEPH PETRIE, JAMIE GILBERT, ANTHONY DERBY  
29 (“Defendants”), by and through their attorneys of record, hereby stipulate and agree pursuant to  
Local Rule 7-1 as follows:

30 1. Pursuant to Local Rule 26-1(d), the Plaintiff shall initiate “the Fed. R. Civ. P. 26(f)  
31 meeting within thirty (30) days after the first defendant answers or otherwise appears.” On February  
32 22, 2017, Defendants appeared when they filed their Motion to Dismiss Complaint (ECF No. 5)

1 ("Motion to Dismiss").

2. Pursuant to Local Rule 26-1(d), "the parties shall submit a stipulated discovery plan  
3 and scheduling order" fourteen (14) days after the mandatory Fed. R. Civ. P. 26(f) conference.

4. The parties held a conference on March 17, 2017 to discuss discovery and case  
5 deadlines, and agreed to enter a stipulation to stay discovery deadlines for the following reasons:

6. Defendants' Motion to Dismiss (ECF No. 5) seeks to dismiss all the claims against  
7 Defendants for failure to state a claim, application of qualified immunity, and/or the Coverdell Act.  
8 Plaintiffs disputes Defendants' position and filed their response in opposition alleging that their  
9 claims are sufficiently plead and should not be dismissed. (ECF No. 14). Alternatively, Plaintiffs  
10 requested leave to amend their Complaint. *Id.*

11. The parties agree it is in the best interest of all parties to await the Court's ruling on  
12 the Motion to Dismiss (ECF No. 5) prior to setting discovery deadlines and incurring the time and  
13 expense of written discovery and depositions in the event the Court dismisses the action in whole or  
14 in part.

15. Federal district courts have "wide discretion in controlling discovery." *Little v. City*  
16 *of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In exercising this discretion, a district court may stay  
17 discovery based on the filing of a motion that is "potential dispositive of the entire case." *Tradabay,*  
18 *LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). *See also Turner Broadcasting Sys. v.*  
19 *Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (holding that "[w]hether to grant a stay is  
20 within the discretion of the Court..."); *Ministerio Roca Solida v. U.S. Dep't of Fish & Wildlife*, 288  
21 F.R.D. 500, 506 (D. Nev. 2013) ("discovery should be stayed while dispositive motions are pending  
22 only when there are no factual issues in need of further immediate exploration, and the issues before  
23 the Court are purely questions of law...") (internal quotations omitted). As such, it is within the  
24 Court's power to grant a stay of discovery at this time.

25. It would be burdensome and unfair to have the parties incur the expense of time-  
26 consuming and costly discovery because the parties have agreed to a stay. Rule 1 of the Federal  
27 Rules of Civil Procedure provides that the federal rules of practice should be "construed and  
28 administered to secure the just, speedy, and *inexpensive* determination of every action and

1 proceeding.” (emphasis added). Thus, staying discovery in this case is consistent with the spirit and  
2 intent of the Federal Rules of Civil Procedure. Further, should the Court agree that Plaintiffs are  
3 entitled to amend their Complaint, if necessary, then parties would need to conduct discovery as to  
4 the amended pleadings. If a stay is not granted, the parties will be required to engage in and incur  
5 the costs of discovery which may not be necessary.

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8. In order to preserve the parties' resources, and to promote judicial economy, the parties have agreed, subject to the Court's approval, to stay discovery until this Court rules on Defendants' pending Motion to Dismiss. The parties further stipulate to delay submission of the stipulated discovery plan and discovery order for fourteen (14) days after this Court rules on Defendants' pending Motion to Dismiss.

DATED: March 31, 2017.

DATED: March 31, 2017.

GANZ & HAUF

## OFFICE OF THE GENERAL COUNSEL

/s/ David Gluth

/s/ Daniel L. O'Brien

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### *Attorneys for Defendants*

## ORDER

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: April 3, 2017